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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 3.25 p.m.

Agenda item 102: Advancement of women (*continued*)

1. **The Chairman** proposed that the Committee should recommend that the General Assembly take note of the Secretary General's note on the situation of the International Research and Training Institute for the Advancement of Women (A/57/129-E/2002/77).

2. *It was so decided.*

3. **The Chairman** stated that the Committee had now completed its consideration of agenda item 102.

Agenda item 109: Human rights questions (*continued*)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/C.3/57/L.48 and L.83)

Draft resolution A/C.3/57/L.48: Situation of human rights in Myanmar

4. **The Chairman** said that Lithuania had also become a sponsor of the draft resolution. The programme budget implications of the draft resolution were presented in document A/C.3/57/L.83.

5. **Mr. de Barros** (Secretary of the Committee) said that there was an amendment that should be made to the draft resolution: in operative paragraph 5(h), the word "further" should be inserted after the word "recognize".

6. **Mr. Swe** (Myanmar), speaking in explanation of his delegation's position on the draft resolution, said that the proposed text, like earlier resolutions on the same question, was biased and reflected unsubstantiated allegations emanating from dissident groups which it presented as fact. While it acknowledged some improvements, it did not give due recognition to the true evolving human rights situation, of which it presented an unrealistic, selective and subjective description.

7. With reference to operative paragraph 3(a) of the resolution, the Government was co-operating fully with the United Nations. The Special Rapporteur of the Commission on Human Rights and the Secretary-General's Special Envoy had enjoyed complete freedom of movement during their numerous visits to Myanmar. The new United Nations High Commissioner for Human Rights had also been invited to visit the country. Among the measures taken by the Government to promote and protect human rights had been the establishment of a Human Rights Committee chaired by the Minister for Home Affairs; the Committee was organizing a series of human rights workshops which were designed initially for public officials but would subsequently be widened to benefit a greater range of citizens.

8. The allegations in operative paragraph 3(b), to the effect that rape had been systematically committed by members of the armed forces, had been put out by two unreliable non-governmental organizations with links with some remaining armed splinter groups involved in drug trafficking and well-funded exile groups. The United States Department of State had stated in its most recent biennial report that one of those organizations, the Shan Human Rights Foundation, had originally been linked to the Shan United Army, which was reputedly engaged in drug trafficking. Those allegations were part of a propaganda campaign aimed at slandering and discrediting the armed forces in an effort to derail the national reconciliation process. Three independent organizations from Myanmar had conducted separate investigations and found that the allegations were untrue. The Special Rapporteur had been invited to look into the issue in the course of his visit in October 2002, but had declined the invitation.

9. A report recently issued by another non-governmental organization alleged that the Myanmar armed forces had the largest number of child soldiers in the world. The preposterous figure of 70,000 in the report appeared to have been derived from the statement of 25 or so military deserters with dubious credibility. The Myanmar armed forces consisted exclusively of disciplined volunteers, and no person could be enlisted until he had attained the age of 18.

10. The allegations relating to torture were inconsistent with the written and oral reports submitted by the Special Rapporteur. Similarly, the expressed concern about conditions of detention took into account neither the improvements reported by the Special Rapporteur, who had interviewed many prisoners, nor the current Government's co-operation with the International Committee of the Red Cross.

11. The charges formulated in operative paragraphs 3(a) and 5(h) were unwarranted. The Government was seriously committed to fighting the spread of HIV/AIDS and had adopted a multisectoral approach, as the Special Rapporteur had emphasized. The issue was being addressed as a matter of priority; HIV/AIDS had been designated a disease of national concern. The National AIDS Programme and the Joint United Nations Programme on HIV/AIDS had jointly drafted a plan of action to combat HIV/AIDS in the country. The use of the term "epidemic" in the draft resolution was regrettable in view of the fact that the infection rate in Myanmar was less than 2 per cent.

12. With reference to the action urged upon the Government in operative paragraph 4(g), it should be emphasized that only the Government's persevering efforts had made it possible to contain the armed conflicts that had plagued Myanmar ever since it had gained its independence in 1948. Seventeen insurgent groups had laid down their arms and were participating in development activities in their respective regions in co-operation with the Government. The Special Rapporteur had expressed gratification at the results thereby obtained, as they were conducive to peace and development. The country was currently enjoying unprecedented peace. Moreover, in view of the fact that the Government was co-operating closely both with the Special Envoy and with the Special Rapporteur, the wording of operative paragraph 4(e) was somewhat surprising. The sole point of such a paragraph would seem to be to suggest that Myanmar was not co-operating with the representatives referred to. His delegation could only speculate about the motives of the sponsors of the draft resolution.

13. His delegation wished to pay tribute to the delegations of the countries of Asia and the Pacific, Africa, Latin America and the Caribbean for their efforts on behalf of a more impartial and more positive draft resolution.

14. **Mr. Andrabi** (Pakistan), speaking in explanation of his delegation's position before a decision, said that the promotion of human rights was altogether desirable, but that human rights should not be used for political purposes. The draft resolution would have been more balanced and more credible if the text had had more to say about the encouraging measures taken by the Government of Myanmar, in particular by placing greater emphasis on the Government's full co-operation with the Special Rapporteur, its invitation to the High Commissioner for Human Rights to visit the country, and its co-operation with the International Labour Organization and the International Committee of the Red Cross. In addition, the sources that had provided the more damaging information should have been clearly spelled out. The resolution would then have enjoyed greater credibility and would have made a more useful contribution to the task of steering the human rights situation in Myanmar along the right course.

15. **Mr. Amorós Núñez** (Cuba), speaking in explanation of his delegation's position before a decision, said that his delegation would not support the draft resolution, which, because of its subjective and selective wording, would work against the promotion of human rights in Myanmar. The initiative was an illustration of double standards, and as such it could not be used to exert political pressure on that country.

16. **Ms. Ahmed** (Sudan) said that her delegation regarded dialogue and capacity-building as the most desirable means of promoting human rights, along with investigation of the underlying factors impeding the exercise of those rights. On the basis of its principled position that human rights questions should be non-political in character, her delegation was opposed to the draft resolution.

17. **Ms. Khalil** (Egypt) said that her delegation was, as always, opposed to any interference in the internal affairs of States on the pretext of investing the human rights situation in the States in question. It declined to endorse a selective approach to human rights questions, and consequently could not align itself with the draft resolution.

18. **Ms. Loemban Tobing-Klein** (Suriname), recalling the Special Rapporteur's conclusions as stated in his report (A/57/290), said that the situation of human rights in Myanmar was opening up fresh prospects for democratization and reconciliation. Her delegation wished to emphasize that the role of the United Nations was to encourage States in their efforts to improve the situation of their peoples' human rights.

19. *Draft resolution A/C.3/57/L.48, as orally amended, was adopted without a vote.*

20. **Ms. Saiga** (Japan), speaking in explanation of her delegation's position, emphasized that while the problems should not be underestimated, it was also important to recognize positive developments in the

situation in Myanmar, including in particular the release of Daw Aung San Suu Kyi in May 2002, and to send a balanced message to the Government. The resolution should not seek to isolate Myanmar from the rest of the international community, but rather encourage it to intensify its efforts to improve the human rights situation. The wording of the resolution would have been more credible and balanced if it had been the outcome of genuine dialogue among all the parties concerned, including in particular the countries of the region, regardless of whether they were sponsors of the draft resolution. It was sincerely to be hoped that the Government of Myanmar would continue its efforts to promote human rights and achieve national reconciliation. Her delegation was prepared to support it in attaining those objectives.

21. **Mr. Chowdhury** (Bangladesh) noted that Bangladesh had played a role as a member of the Commission on Human Rights or as an observer with that body. His delegation would like to see democratic forces flourish in Myanmar, especially since that country was one of Bangladesh's neighbours. The efforts of the European Union and other delegations in that connection were praiseworthy. The Government of Myanmar should be encouraged to make further progress, and consequently it was essential to avoid measures that might jeopardize its co-operation, which was of crucial importance.

22. **Mr. Dhakal** (Nepal) expressed gratification at the progress that had been made in the matter of human rights in Myanmar and the fact that the resolution which had just been adopted referred to that progress. The international community should appreciate the Government of Myanmar's efforts and strengthen its co-operation.

23. **Ms. Tomar** (India) thanked the Secretary-General's Special Envoy and the Special Rapporteur of the Commission on Human Rights who had been appointed to investigate the human rights situation in Myanmar. It was to be hoped that they would continue with their admirable work. While the resolution had been adopted without having been put to a vote, it was important none the less to recognize the reality of the situation in Myanmar and not to ignore the Government's efforts, including in particular the way it had settled the issues of national sovereignty and territorial integrity through dialogue among the various ethnic groups, and had initiated a national reconciliation process. Moreover, Myanmar had demonstrated good will toward the United Nations, in the area of human rights in particular, and the international community should provide support through bilateral initiatives.

24. **Mr. Sinaga** (Indonesia) expressed regret that the resolution had once again failed to attract consensus, as the delegations of Myanmar and some other Member States had found the wording unacceptable. Some delegations had expressed reservations following the consultations, and the draft resolution would have been more credible and effective if those concerns had been taken into account. His delegation hoped that it would be easier to reach a consensus in 2003.

25. **Ms. Garcia** (Philippines) said that her delegation had been quite prepared to participate in constructive dialogue on the question under consideration. It was regrettable that the resolution did not reflect the series of amendments that had been proposed by various delegations with a view to arriving at a more balanced formulation. It was to be hoped that the sponsors would adopt a more satisfactory consultation process in the future, in a spirit of open-mindedness and transparency, in an effort to achieve consensus.

26. **Mr. Singhara Na Aydhaya** (Thailand) said that any draft resolution on the human rights situation in a particular country should be balanced and take positive aspects as actually observed into account, in order to encourage the Government concerned to make further progress. In that connection, his delegation was gratified to see that the Government of Myanmar had initiated a national reconciliation process, and complimented that Government on its demonstrated willingness to co-operate with the Secretary-General's Special Envoy and the Special Rapporteur of the Commission on Human rights, who were playing a crucial role. It was to be hoped that the Government of Myanmar would continue to co-operate with the international community, and with the United Nations in particular, on important issues such as drug trafficking. He thanked the sponsors of draft resolution A/C.3/57/L.48, especially Denmark, for their successful effort to foster dialogue among the parties concerned.

27. **Mr. Xie Bohua** (China) expressed gratification at the Government of Myanmar's efforts to upgrade its people's standard of living and ensure the enjoyment of human rights, in full co-operation with the international community. The Special Rapporteur of

the Commission on Human Rights and the Secretary-General's Special Envoy had visited the country on numerous occasions, and the Government of Myanmar had invited the United Nations High Commissioner for Human Rights to do the same. The international community should further encourage the Government to make additional progress. It was regrettable that the resolution just adopted was lacking in objectivity and contained irresponsible, unwarranted accusations.

28. **Ms. Pham Thi Kim Anh** (Viet Nam) said that resolutions on the situation of human rights in a particular country were not invariably the best way of attaining the end in view. It was important to avoid a confrontational approach and seek to foster dialogue and co-operation. Her delegation welcomed recent positive developments in Myanmar, including in particular the national reconciliation process and the Government's willingness to co-operate with the Secretary-General's Special Envoy and the Special Rapporteur of the Commission on Human Rights. It was unfortunate that the wording of the resolution did not reflect the reality of the situation in Myanmar.

29. **Mr. Vixay** (Lao People's Democratic Republic) said that the Government of the Lao People's Democratic Republic was following developments in the neighbouring country of Myanmar with close attention. It was regrettable that there was no reference to the progress that had been made to date, in particular with respect to national reconciliation and democratization. It was through acknowledgement of the reality of the situation that the interests of the people would be best served.

30. **Ms. Thong Sokuntheary** (Cambodia) recalled the importance of the principles set forth in paragraph 5 of the Vienna Declaration (A/CONF.157/24). The question of the promotion of human rights must be approached in the light of developing countries' efforts to combat poverty and ensure their peoples' welfare, which was a fundamental right. In that connection, her delegation took note of positive developments in the human rights situation in Myanmar and complimented the Government on its efforts, including in particular its co-operation with the Secretary-General's Special Envoy and the Special Rapporteur of the Commission on Human Rights.

Agenda item 109 (b): Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/57/L.57)

Draft resolution A/C.3/57/L.57: Question of enforced or involuntary disappearances

31. **The Chairman** announced that Andorra, Bosnia and Herzegovina, Brazil, Croatia, Haiti, Liechtenstein, Panama, Republic of Moldova, South Africa, Swaziland, Ukraine and the United Kingdom of Great Britain and Northern Ireland had become sponsors of the draft resolution.

32. **Mr. de Barros** (Secretary of the Committee) read out a statement from the Programme Planning and Budget Division on the financial implications of draft resolution A/C.3/57/L.48, with reference to paragraph 20. The Secretariat drew the Committee's attention to the provisions of section VI of General Assembly resolution 45/248 B, under which the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions were entrusted with responsibilities for administrative and budgetary matters. Expenditures relating to the work of the Working Group were included in the programme budget for the biennium 2002-2003, and consequently the adoption of draft resolution A/C.3/57/L.57 would have no implications for that budget.

33. **Mr. Moret** (France) reviewed the amendments that his delegation had made to the text at the time of its presentation. In the fourth preambular paragraph, the words "where these are part of or amount to enforced disappearances" should be added after "abductions"; in the seventh preambular paragraph, "welcoming" had been replaced by "acknowledging", at the request of one delegation; lastly, in paragraph 5 of the operative part, the words "have developed" should be inserted after "investigating". His delegation maintained those three amendments to the text of the draft resolution submitted to the Committee for adoption.

34. **The Chairman** announced that Bolivia, Costa Rica, Cyprus, Japan, Mali, the Republic of Korea and Suriname had also become sponsors.

35. **Ms. Ouedraogo** (Burkina Faso) said that her delegation had been erroneously included in the list of sponsors.

36. **Ms. Tonos** (Dominican Republic) said that her delegation had also become a sponsor.

37. **The Chairman** said that a recorded vote on the seventh preambular paragraph had been requested.

38. **Mr. Huston** (Liechtenstein) said that it was essential for the text of the draft resolution to make due reference to the Rome Statute of the International Criminal Court, article 7 of which ranked the enforced disappearance of persons among crimes against humanity and was the soundest legal basis for bringing charges for enforced disappearance at the national level. That article also constituted the international community's most important statement on enforced disappearance since the General Assembly's adoption of the Declaration on the Protection of All Persons from Enforced Disappearance in 1992. The draft resolution would be much less meaningful and would not reflect the substantial progress made in recent years if it made no mention of the Rome Statute of the International Criminal Court, which had already been ratified by 83 States and signed by 139 more.

39. Despite the fact that some delegations were opposed to the International Criminal Court as an institution, the definitions of crimes set forth in the Rome Statute had always been universally regarded as valid. Recognition of other acts as crimes covered by the Statute had been approved by consensus in June 2000, and the draft resolution drew attention to the General Assembly's recognition of forced disappearances as a crime against humanity, as defined in the Rome Statute.

40. The seventh preambular paragraph of the draft resolution, as amended orally by the French delegation, reflected the wording adopted by consensus in a Sixth Committee resolution on the status of the Protocol Additional to the Geneva Conventions of 1949 relating to the Protection of Victims of International Armed Conflicts, which had just been adopted by the General Assembly without explanations of position. Consequently, that formulation could be regarded as the expression of a consensus among States Members of the United Nations, especially in view of the fact that it was similar to the wording of a resolution on trafficking in women and girls that had recently been adopted by the Third Committee. His delegation wished to emphasize that it would have preferred more clear-cut references to the importance of the International Criminal Court, but, like other delegations, had agreed to a compromise.

41. Out of concern for consistency, and aware as it was of the efforts that all delegations had made in good faith in search of an acceptable formulation, his delegation supported the draft resolution as presented and orally amended by the French delegation, and would not agree to see the text further watered down.

42. **Mr. Moret** (France) said that his delegation endorsed the statement made by the representative of Liechtenstein and would like to add a few remarks. It was unfortunate that a consensus had been reached, only to be broken by the delegation of the United States of America, whereas his delegation, in all good faith and expressly with a view to reaching consensus, had agreed that the term "welcoming" should be replaced by "acknowledging", thinking that such a reasonable, neutral solution would be acceptable to all delegations. The confused and sometimes contradictory last-minute request for a vote on the paragraph in question was deplorable. The agreed wording of the resolution was consistent with the Rome Statute of the International Criminal Court, and was also relevant: the jurisdiction of the International Criminal Court in matters of enforced disappearances was not hypothetical, inasmuch as such disappearances were a crime against humanity and as such were clearly within the Court's jurisdiction. His delegation had the impression that the delegation of the United States was confusing the concepts of "competence" and "exercise of competence".

43. **Ms. Groux** (Switzerland), **Mr. Baardvik** (Norway), **Mr. Hahn** (Denmark), speaking on behalf of the European Union, and **Ms. Sereno** (Uruguay) said that their delegations wished to align themselves with the statement made by the representative of Liechtenstein.

44. **Ms. Leyton** (Chile) said that her delegation joined the French delegation in finding it regrettable that no consensus had been reached on a draft resolution that was clearly important. Her delegation fully endorsed the statement made by the delegation of Liechtenstein.

45. **Mr. von Kaufmann** (Canada) said that his delegation also regretted the failure to reach consensus on the draft declaration. Yet the contentious form of words was identical to the form of words that the General Assembly had adopted by consensus. All

delegations should vote in favour of the paragraph in question.

46. **Mr. Begg** (New Zealand) said that his delegation was deeply disappointed at the fact that for the first time, a vote on the draft resolution had been requested, especially in view of the fact that the vote had to do with a reference to the International Criminal Court, which had always enjoyed consensus. His delegation fully endorsed the statement of the representative of Liechtenstein, and wished to remind other delegations that, as they had aligned themselves with the consensus on the form of words that was to appear in the text of the draft resolution, they should feel able to vote for the adoption of the paragraph in question.

47. **Mr. D'Alotto** (Argentina) said that his delegation endorsed the statement made by the representative of Liechtenstein, and found it deeply regrettable that a long-standing consensus on a resolution which Argentina cherished, because of the issue addressed in it, should have been breached. All delegations should vote for the text as a whole, including in particular the seventh preambular paragraph.

48. **Ms. Ramirez** (Costa Rica) said that her delegation also regarded it as regrettable that such an important document should have failed to attract a consensus. Her delegation wished to align itself with the statement made by the representative of Liechtenstein, and called upon all the delegations to vote in favour of the seventh preambular paragraph and for the draft resolution, as currently worded, as a whole.

49. **Ms. Morgan** (Mexico) said that her delegation, as a sponsor of the draft resolution, wished to align itself with the statement made by the representative of Liechtenstein. The resolution was of the utmost importance, although it would have been preferable for the seventh preambular paragraph to be more firmly worded.

50. **Ms. Pulido Santana** (Venezuela) said that her delegation wished to align itself with the statement made by the representative of Liechtenstein and with the remarks made earlier by other delegations. Venezuela was a State Party to the Rome Statute, and consequently her delegation considered it important for the draft resolution to include an explicit reference to the Statute.

51. **Mr. Cardoso** (Brazil) said that his delegation wished to align itself with the statement made by the representative of Liechtenstein and, as a sponsor of the draft resolution, found it regrettable that consensus had not been achieved.

52. **Ms. Morgan-Moss** (Panama) said that her delegation wished to associate itself with the statement made by the representative of Liechtenstein. It was unfortunate that consensus had not been achieved.

53. **Mr. Fox** (United States of America), speaking in explanation of vote before the voting, said that he had no desire to go yet again into the reasons why his delegation was opposed to the Rome Statute. The United States of America was not seeking to undermine the International Criminal Court. Respecting as it did the right of every country to become a party to the Statute, it was entitled to expect that its own decision would be respected as well.

54. His delegation had asked that the seventh preambular paragraph of the draft resolution should read, "Notes the fact that acts of enforced disappearance could come within the competence of the Court," whereas the agreed wording implied that all acts of enforced disappearance, rather than only some instances of such acts, came within the competence of the Court. His delegation regretted that its view had not been taken into consideration. It was for that reason that it had requested a vote on the inclusion of the seventh preambular paragraph in the draft text. It would, however, align itself with the consensus on the resolution as a whole in order to demonstrate its determination to combat the unacceptable practice of enforced disappearance.

55. *A recorded vote was taken on the seventh preambular paragraph.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Comoros, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Finland,

France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Namibia, Nepal, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the Former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia.

Against:

United States of America.

Abstaining:

Congo, Honduras, Israel, Libyan Arab Jamahiriya, Mozambique, Myanmar, Pakistan, Papua New Guinea.

56. *The seventh preambular paragraph of draft resolution A/C.3/57/L.57, as orally amended by France, was adopted by 148 votes to 1, with 8 abstentions.*

57. *Draft resolution A/C.3/57/L.57, as orally amended, was adopted without a vote.*

58. **Ms. Tomar** (India), speaking in explanation of her delegation's position after adoption of the draft resolution, said that while her delegation had joined the consensus on the text, two remarks about paragraphs 11 and 22 of the operative part were in order. With respect to the former, her delegation attached great importance to the work of the Working Group, which should concern itself only with matters for which it had all the required elements at its disposal and which fell under its mandate; it should also ensure that every case investigated was sufficiently documented and clearly identified. With respect to operative paragraph 22, it was inappropriate to "welcome" a report submitted by an independent expert; it would have been preferable to "take note of" the report in question.

The meeting rose at 4.45 p.m.